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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,273	04/09/2001	Wayne R. Myers	CRNC.78765	8119

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SHOOK, HARDY & BACON L.L.P.
Intellectual Property Department
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

EXAMINER

SHORTLEDGE, THOMAS E

ART UNIT	PAPER NUMBER
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2626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/829,273

Applicant(s)

MYERS ET AL.

Examiner

Thomas E. Shortledge

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-26, 28-46 and 48-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-26, 28-46 and 48-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-6, 8-26, 28-46 and 48-60 are pending in the application.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/10/2006 has been entered.

Response to Arguments

3. Applicant's arguments with respect to claims 1-6, 8-26, 28-46 and 48-60 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6, 8-26, 28-46 and 48-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watrous (6,629,937) in view of Rapaport et al. (5,926,526).

As to claim 1, 21 and 41, Watrous teaches:

receiving a medical test result for a type of medical test (acquire test data col. 4, lines 12-35 and Fig. 5, elements 510 and 515);

determining if the medical test result will be automatically interpreted independent of clinician input or if the medical test result will be interpreted using clinician input (determining if remote analysis is required and if it is commuting the audio data and medical data to a remote location, Fig. 5, elements 535);

if the medical test result will be automatically interpreted independent of clinician input, identifying at least one template associated with the type of medical test; selecting a template matching the medical test result; and outputting a plain language explanation based on the selected template (automatically diagnosing a test result, and identifying a diagnostic output based on the selected medical test, and the diagnostic output in text form including explanatory information, col. 8, lines 47-55).

Watrous does not explicitly teach a template. However, Rapaport et al. teach a template (bulletin), having an area to insert patient medical test information, is used to

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translate the diagnosis of the matching medical test to plain language, (col. 9, lines 48-67, and col. 10 lines 1-2 and Table A, lines 60-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the templates of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 2, 22 and 42, Watrous teaches identifying at least one diagnosis output with an explanation associated with the type of medical test comprises identifying a set of a plurality of diagnosis associated with the type of medical test (col. 8, lines 39-55).

Watrous does not teach a template. However, Rapaport et al. teach a template (bulletin), having an area to insert patient medical test information, is used to translate the diagnosis of the matching medical test to plain language, (col. 9, lines 48-67, and col. 10 lines 1-2 and Table A, lines 60-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the templates of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the

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medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 3, 23 and 43, Watrous does not teach each template of the identified set corresponds to a range of medical test result values.

However, Rapaport et al. teach templates (bulletins), different templates corresponding to different range of values, the templates having an area to insert patient medical test information, is used to translate the diagnosis of the matching medical test to plain language (col. 9, lines 48-67, and col. 10, lines 1-2 and Table A, lines 60-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the templates of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 4, 24 and 44, Watrous teaches selecting diagnostic output (col. 8, lines 46-56). However, Watrous does not teach the diagnostic output are templates, and the templates correspond to the range encompassing the medical test result.

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However, Rapaport et al. teach templates (bulletins), different templates corresponding to different range of values, the templates having an area to insert patient medical test information, is used to translate the diagnosis of the matching medical test to plain language (col. 9, lines 48-67, and col. 10, lines 1-2 and Table A, lines 60-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the templates of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 5, 25 and 45, Watrous does not teach each template of the identified set corresponds to a medical test result value.

However, Rapaport et al. teach templates (bulletins), different templates corresponding to different range of values, the templates having an area to insert patient medical test information, is used to translate the diagnosis of the matching medical test to plain language (col. 9, lines 48-67, and col. 10, lines 1-2 and Table A, lines 60-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the

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templates of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 6, 26 and 46, Watrous teaches selecting diagnostic output (col. 8, lines 46-56). However, Watrous does not teach the diagnostic output are templates, and determining a template corresponding to the medical test result value.

However, Rapaport et al. teach templates (bulletins), different templates corresponding to different range of medical result values, the templates having an area to insert patient medical test information, is used to translate the diagnosis of the matching medical test to plain language (col. 9, lines 48-67, and col. 10, lines 1-2 and Table A, lines 60-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the templates of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 8, 28 and 48, Watrous teaches if the medial test result will be interpreted using clinician input distributing the medical test result to the clinician and receiving clinician input (determining if remote analysis is required and if it is commuting the audio data and medical data to a remote location where user input is used to create a diagnosis, col. 10, lines 42-67 and Fig. 5, elements 535);

Watrous does not teach the input matching the medical test result to a template.

However, Rapaport et al. teach a user selects templates (bulletins) to be outputted to the patient (col. 9, lines 48-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the templates of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 9, 29 and 49, Watrous teaches recording the input of the clinician (storing the input of a user for diagnosing the patient, col. 10, lines 45-67).

As to claims 10, 30 and 50 Watrous does not teach the step of receiving patient information and comparing the patient information against a list of patients having authorization to receive the medical test result.

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However, Rapaport et al. teach having a patient enter his identification number, along with a password, giving the patient access to the system (co. 7, lines 48-57).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the templates of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claim 11, 31 and 51, Watrous does not teach the selected template includes at least one placeholder.

However, Rapaport et al. teach bulletins with placeholders, (Table A, col. 10, lines 40-66).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the templates of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claim 12, 32 and 52, Watrous does not teach inserting data into the selected template at the placeholder.

However, Rapaport et al. teach inserting data into placeholders, (col. 10, lines 40-66).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the templates of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 13, 33 and 53, Watrous does not teach the data is numerical value for the medical test result.

However, Rapaport et al. teach a bulletin having placeholder, where the placeholders represent areas for medical test information is to be inserted (col. 10, lines 40-66). Where it would be necessary to complete the output, medical data would be inserted into the placeholders.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the templates of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the

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medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 14, 34 and 54, Watrous does not teach the step of determining whether the selected template can be sent directly to the patient.

However, Rapaport et al. teach the medical provider is able to select if the corresponding template (bulletin) is to be sent to the patient or if not, an "on-the-fly" bulletin is be made sent (col. 9, line 63 through col. 10, line 2, and col. 10, lines 22-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the audible output of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 15, 35 and 55, Watrous does not teach the outputting includes sending a message to a storage unit and adapting the selected template for viewing via a web browser.

However, Rapaport et al. teach storing the message for output, and the output device can be an Internet device (col. 5, lines 11-13), where it would be necessary that outputting to an Internet device would include viewing the message with a web browser.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the templates of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 16, 36 and 56, Watrous teaches the outputted plain language explanation is textual (see rejection to claim 1).

As to claims 17, 37 and 57, Watrous does not teach the outputted plain language explanation is audible.

However, Rapaport et al. teach the outputted plain language explanation is outputted via a telephone (col. 5, lines 1-2)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the audible output of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have

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the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 18, 38 and 58, Watrous does not teach the plain language explanation is delivered by an automated phone system.

However, Rapaport et al. teach the outputted plain language explanation is outputted via a telephone with an automated user interface (col. 5, lines 1-2)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the audible output of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 19, 39 and 59, Watrous does not teach the plain language explanation is delivered by a wireless device.

However, Rapaport et al. teach the output can be a wireless communication device, (col. 5, lines 11-13).

However, Rapaport et al. teach the outputted plain language explanation is outputted via telephone (col. 5, lines 1-2)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the automatic diagnosis features of Watrous with the output of Rapaport et al. to supply the patient with specific medical test results, that the patient is able to understand in a secure environment without having to have the medical provider to continually attempt to contact the patient, saving both time and resources of the medical provider and patient, as taught by Rapaport et al. (col. 1, lines 43-58).

As to claims 20, 40 and 60, Watrous teaches the step of distributing the results to a physician for review prior to the step of outputting a plain language explanation based on the selected template (see rejection to claim 1 above).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas E. Shortledge whose telephone number is (571)272-7612. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571)272-7602. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TS
12/18/06


RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER